

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 59**

Introduced By: Engel, 17  
Read first time: January 5, 2007  
Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to motor vehicle industry licensing; to amend  
2 sections 60-1403, 60-1403.01, 60-1407, 60-1411.01, and  
3 60-1438.01, Reissue Revised Statutes of Nebraska, and  
4 sections 25-2602.01 and 60-1401.02, Revised Statutes  
5 Cumulative Supplement, 2006; to require completion of an  
6 education program for dealers, agents, and salespersons as  
7 prescribed; to harmonize provisions; to provide a duty for  
8 the Revisor of Statutes; and to repeal the original  
9 sections.

10 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 25-2602.01, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           25-2602.01. (a) A written agreement to submit any existing  
4 controversy to arbitration is valid, enforceable, and irrevocable  
5 except upon such grounds as exist at law or in equity for the  
6 revocation of any contract.

7           (b) A provision in a written contract to submit to  
8 arbitration any controversy thereafter arising between the parties is  
9 valid, enforceable, and irrevocable, except upon such grounds as exist  
10 at law or in equity for the revocation of any contract, if the  
11 provision is entered into voluntarily and willingly.

12           (c) The Uniform Arbitration Act applies to arbitration  
13 agreements between employers and employees or between their respective  
14 representatives.

15           (d) Contract provisions agreed to by the parties to a  
16 contract control over contrary provisions of the act other than  
17 subsections (e) and (f) of this section.

18           (e) Subsections (a) and (b) of this section do not apply to  
19 a claim for workers' compensation.

20           (f) Subsection (b) of this section does not apply to:

21           (1) A claim arising out of personal injury based on tort;

22           (2) A claim under the Nebraska Fair Employment Practice Act;

23           (3) Any agreement between parties covered by sections  
24 60-1401.01 to 60-1440 and sections 6 to 9 of this act; and

25           (4) Except as provided in section 44-811, any agreement  
26 concerning or relating to an insurance policy other than a contract  
27 between insurance companies including a reinsurance contract.

1 (g) When a conflict exists, the Uniform Arbitration Act  
2 shall not apply to the Uniform Act on Interstate Arbitration and  
3 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to  
4 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329.

5 Sec. 2. Section 60-1401.02, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 60-1401.02. For purposes of sections 60-1401.01 to 60-1440  
8 and 60-2601 to 60-2607 and sections 6 to 9 of this act, unless the  
9 context otherwise requires:

10 (1) Person means every natural person, firm, partnership,  
11 limited liability company, association, or corporation;

12 (2) Association means any two or more persons acting with a  
13 common purpose, regardless of the relative degrees of involvement, and  
14 includes, but is not limited to, the following persons so acting:

15 (a) A person and one or more of his or her family members.  
16 For purposes of this subdivision, family member means an individual  
17 related to the person by blood, marriage, adoption, or legal  
18 guardianship as the person's spouse, child, parent, brother, sister,  
19 grandchild, grandparent, ward, or legal guardian or any individual so  
20 related to the person's spouse; and

21 (b) Two or more persons living in the same dwelling unit,  
22 whether or not related to each other;

23 (3) Motor vehicle dealer means any person, other than a bona  
24 fide consumer, actively and regularly engaged in the act of selling,  
25 leasing for a period of thirty or more days, or exchanging new or used  
26 motor vehicles, trailers, and manufactured homes who buys, sells,  
27 exchanges, causes the sale of, or offers or attempts to sell new or

1 used motor vehicles. Such person is a motor vehicle dealer and subject  
2 to sections 60-1401.01 to 60-1440 and sections 6 to 9 of this act.  
3 Motor vehicle dealer does not include a lessor who was not involved in  
4 or associated with the selection, location, acquisition, or supply of  
5 a motor vehicle which is the subject of a lease agreement;

6 (4) Trailer dealer means any person, other than a bona fide  
7 consumer, actively and regularly engaged in the business of selling or  
8 exchanging new or used trailers and manufactured homes;

9 (5) Wrecker or salvage dealer means any person who acquires  
10 one or more motor vehicles or trailers for the purpose of dismantling  
11 them for the purpose of reselling the parts or reselling the vehicles  
12 as scrap;

13 (6) Motor vehicle means any vehicle for which evidence of  
14 title is required as a condition precedent to registration under the  
15 laws of this state but does not include trailers;

16 (7) Used motor vehicle means every motor vehicle which has  
17 been sold, bargained, exchanged, or given away or for which title has  
18 been transferred from the person who first acquired it from the  
19 manufacturer, importer, dealer, or agent of the manufacturer or  
20 importer. A new motor vehicle is not considered a used motor vehicle  
21 until it has been placed in use by a bona fide consumer,  
22 notwithstanding the number of transfers of the motor vehicle;

23 (8) New motor vehicle means all motor vehicles which are not  
24 included within the definition of a used motor vehicle in this  
25 section;

26 (9) Trailer means semitrailers and trailers as defined in  
27 sections 60-348 and 60-354, respectively, which are required to be

1 licensed as commercial trailers, other vehicles without motive power  
2 constructed so as to permit their being used as conveyances upon the  
3 public streets and highways and so constructed as not to be attached  
4 to real estate and to permit the vehicle to be used for human  
5 habitation by one or more persons, and camping trailers, slide-in  
6 campers, fold-down campers, and fold-down tent trailers. Machinery and  
7 equipment to which wheels are attached and designed for being towed by  
8 a motor vehicle are excluded from the provisions of sections  
9 60-1401.01 to 60-1440 and sections 6 to 9 of this act;

10 (10) Motorcycle dealer means any person, other than a bona  
11 fide consumer, actively and regularly engaged in the business of  
12 selling or exchanging new or used motorcycles;

13 (11) Motorcycle means every motor vehicle, except a tractor,  
14 having a seat or saddle for use of the rider and designed to travel on  
15 not more than three wheels in contact with the ground and for which  
16 evidence of title is required as a condition precedent to registration  
17 under the laws of this state;

18 (12) Auction means a sale of motor vehicles and trailers of  
19 types required to be registered in this state, except such vehicles as  
20 are eligible for registration pursuant to section 60-3,198, sold or  
21 offered for sale at which the price offered is increased by the  
22 prospective buyers who bid against one another, the highest bidder  
23 becoming the purchaser. The holding of a farm auction or an occasional  
24 motor vehicle or trailer auction of not more than two auctions in a  
25 calendar year does not constitute an auction subject to sections  
26 60-1401.01 to 60-1440 and sections 6 to 9 of this act;

27 (13) Auction dealer means any person engaged in the business

1 of conducting an auction for the sale of motor vehicles and trailers;

2 (14) Supplemental motor vehicle, trailer, motorcycle, or  
3 motor vehicle auction dealer means any person holding either a motor  
4 vehicle, trailer, motorcycle, or motor vehicle auction dealer's  
5 license engaging in the business authorized by such license at a place  
6 of business that is more than three hundred feet from any part of the  
7 place of business designated in the dealer's original license but  
8 which is located within the city or county described in such original  
9 license;

10 (15) Motor vehicle, motorcycle, or trailer salesperson means  
11 any person who, for a salary, commission, or compensation of any kind,  
12 is employed directly by only one specified licensed Nebraska motor  
13 vehicle dealer, motorcycle dealer, or trailer dealer, except when the  
14 salesperson is working for two or more dealerships with common  
15 ownership, to sell, purchase, or exchange or to negotiate for the  
16 sale, purchase, or exchange of motor vehicles, motorcycles, or  
17 trailers. A person owning any part of more than one dealership may be  
18 a salesperson for each of such dealerships. For purposes of this  
19 section, common ownership means that there is at least an eighty  
20 percent interest in each dealership by one or more persons having  
21 ownership in such dealership;

22 (16) Manufacturer means any person, resident or nonresident  
23 of this state, who is engaged in the business of distributing,  
24 manufacturing, or assembling new motor vehicles, trailers, or  
25 motorcycles and also has the same meaning as the term franchisor as  
26 used in sections 60-1401.01 to 60-1440 and sections 6 to 9 of this  
27 act;

1           (17) Factory representative means a representative employed  
2 by a person who manufactures or assembles motor vehicles, motorcycles,  
3 or trailers, or by a factory branch, for the purpose of promoting the  
4 sale of its motor vehicles, motorcycles, or trailers to, or for  
5 supervising or contacting, its dealers or prospective dealers in this  
6 state;

7           (18) Distributor means a person, resident or nonresident of  
8 this state, who in whole or in part sells or distributes new motor  
9 vehicles, trailers, or motorcycles to dealers or who maintains  
10 distributors or representatives who sell or distribute motor vehicles,  
11 trailers, or motorcycles to dealers and also has the same meaning as  
12 the term franchisor as used in sections 60-1401.01 to 60-1440 and  
13 sections 6 to 9 of this act;

14           (19) Finance company means any person engaged in the  
15 business of financing sales of motor vehicles, motorcycles, or  
16 trailers, or purchasing or acquiring promissory notes, secured  
17 instruments, or other documents by which the motor vehicles,  
18 motorcycles, or trailers are pledged as security for payment of  
19 obligations arising from such sales and who may find it necessary to  
20 engage in the activity of repossession and the sale of the motor  
21 vehicles, motorcycles, or trailers so pledged;

22           (20) Franchise means a contract between two or more persons  
23 when all of the following conditions are included:

24           (a) A commercial relationship of definite duration or  
25 continuing indefinite duration is involved;

26           (b) The franchisee is granted the right to offer and sell  
27 motor vehicles manufactured or distributed by the franchisor;

1 (c) The franchisee, as an independent business, constitutes  
2 a component of the franchisor's distribution system;

3 (d) The operation of the franchisee's business is  
4 substantially associated with the franchisor's trademark, service  
5 mark, trade name, advertising, or other commercial symbol designating  
6 the franchisor; and

7 (e) The operation of the franchisee's business is  
8 substantially reliant on the franchisor for the continued supply of  
9 motor vehicles, parts, and accessories;

10 (21) Franchisee means a new motor vehicle dealer who  
11 receives motor vehicles from the franchisor under a franchise and who  
12 offers and sells such motor vehicles to the general public;

13 (22) Franchisor means a person who manufactures or  
14 distributes motor vehicles and who may enter into a franchise;

15 (23) Community means a franchisee's area of responsibility  
16 as stipulated in the franchise;

17 (24) Line-make means the motor vehicles that are offered for  
18 sale, lease, or distribution under a common name, trademark, service  
19 mark, or brand name of the franchisor or manufacturer of the motor  
20 vehicle;

21 (25) Consumer care means the performance, for the public, of  
22 necessary maintenance and repairs to motor vehicles;

23 (26) Sale, selling, and equivalent expressions mean the  
24 attempted act or acts either as principal, agent, or salesperson or in  
25 any capacity whatsoever of selling, bartering, exchanging, or  
26 otherwise disposing of or negotiating or offering or attempting to  
27 negotiate the sale, purchase, or exchange of or interest in any motor

1 vehicle, trailer, or motorcycle, including the leasing of any motor  
2 vehicle, trailer, or motorcycle for a period of thirty or more days  
3 with a right or option to purchase under the terms of the lease;

4 (27) Established place of business means a permanent  
5 location within this state, easily accessible to the public, owned or  
6 leased by the applicant or a licensee for at least the term of the  
7 license year, and conforming with applicable zoning laws, at which the  
8 licensee conducts the business for which he or she is licensed and may  
9 be contacted by the public during posted reasonable business hours  
10 which shall be not less than forty hours per week. The established  
11 place of business shall have the following facilities: (a) Office  
12 space in a building or mobile home, which space shall be clean, dry,  
13 safe, and well lighted and in which shall be kept and maintained all  
14 books, records, and files necessary for the conduct of the licensed  
15 business, which premises, books, records, and files shall be available  
16 for inspection during regular business hours by any peace officer or  
17 investigator employed or designated by the board. Dealers shall, upon  
18 demand of the board's investigator, furnish copies of records so  
19 required when conducting any investigation of a complaint; (b) a sound  
20 and well-maintained sign which is legible from a public road and  
21 displayed with letters not less than eight inches in height and one  
22 contiguous area to display ten or more motor vehicles, motorcycles, or  
23 trailers in a presentable manner; (c) adequate repair facilities and  
24 tools to properly and actually service warranties on motor vehicles,  
25 motorcycles, or trailers sold at such place of business and to make  
26 other repairs arising out of the conduct of the licensee's business  
27 or, in lieu of such repair facilities, the licensee may enter into a

1 contract for the provision of such service and file a copy thereof  
2 annually with the board and shall furnish to each buyer a written  
3 statement as to where such service will be provided as required by  
4 section 60-1417. The service facility shall be located in the same  
5 county as the licensee unless the board specifically authorizes the  
6 facility to be located elsewhere. Such facility shall maintain regular  
7 business hours and shall have suitable repair equipment and facilities  
8 to service and inspect the type of vehicles sold by the licensee.  
9 Investigators of the board may certify ongoing compliance with the  
10 service and inspection facilities or repair facilities; and (d) an  
11 operating telephone connected with a public telephone exchange and  
12 located on the premises of the established place of business with a  
13 telephone number listed by the public telephone exchange and available  
14 to the public during the required posted business hours. A mobile  
15 truck equipped with repair facilities to properly perform warranty  
16 functions and other repairs shall be deemed adequate repair facilities  
17 for trailers. The requirements of this subdivision shall apply to the  
18 place of business authorized under a supplemental motor vehicle,  
19 motorcycle, or trailer dealer's license;

20 (28) Retail, when used to describe a sale, means a sale to  
21 any person other than a licensed dealer of any kind within the  
22 definitions of this section;

23 (29) Factory branch means a branch office maintained in this  
24 state by a person who manufactures, assembles, or distributes motor  
25 vehicles, motorcycles, or trailers for the sale of such motor  
26 vehicles, motorcycles, or trailers to distributors or dealers or for  
27 directing or supervising, in whole or in part, its representatives in

1 this state;

2 (30) Distributor representative means a representative  
3 employed by a distributor or distributor branch for the same purpose  
4 as set forth in the definition of factory representative in this  
5 section;

6 (31) Board means the Nebraska Motor Vehicle Industry  
7 Licensing Board;

8 (32) Scrap metal processor means any person engaged in the  
9 business of buying vehicles, motorcycles, or parts thereof for the  
10 purpose of remelting or processing into scrap metal or who otherwise  
11 processes ferrous or nonferrous metallic scrap for resale. No scrap  
12 metal processor shall sell vehicles or motorcycles without obtaining a  
13 wrecker or salvage dealer license;

14 (33) Designated family member means the spouse, child,  
15 grandchild, parent, brother, or sister of the owner of a new motor  
16 vehicle dealership who, in the case of the owner's death, is entitled  
17 to inherit the ownership interest in the new motor vehicle dealership  
18 under the terms of the owner's will, who has been nominated in any  
19 other written instrument, or who, in the case of an incapacitated  
20 owner of such dealership, has been appointed by a court as the legal  
21 representative of the new motor vehicle dealer's property;

22 (34) Bona fide consumer means an owner of a motor vehicle,  
23 motorcycle, or trailer who has acquired such vehicle for use in  
24 business or for pleasure purposes, who has been granted a certificate  
25 of title on such motor vehicle, motorcycle, or trailer, and who has  
26 registered such motor vehicle, motorcycle, or trailer, all in  
27 accordance with the laws of the residence of the owner, except that no

1 owner who sells more than eight registered motor vehicles,  
2 motorcycles, or trailers within a twelve-month period shall qualify as  
3 a bona fide consumer;

4 (35) Violator means a person acting without a license or  
5 registration as required by sections 60-1401.01 to 60-1440 and  
6 sections 6 to 9 of this act;

7 (36) Manufactured home means a structure, transportable in  
8 one or more sections, which in the traveling mode is eight body feet  
9 or more in width or forty body feet or more in length or when erected  
10 on site is three hundred twenty or more square feet and which is built  
11 on a permanent chassis and designed to be used as a dwelling with or  
12 without a permanent foundation when connected to the required  
13 utilities and includes the plumbing, heating, air conditioning, and  
14 electrical systems contained in the structure, except that  
15 manufactured home includes any structure that meets all of the  
16 requirements of this subdivision other than the size requirements and  
17 with respect to which the manufacturer voluntarily files a  
18 certification required by the United States Secretary of Housing and  
19 Urban Development and complies with the standards established under  
20 the National Manufactured Housing Construction and Safety Standards  
21 Act of 1974, ~~as amended,~~ 42 U.S.C. 5401 et seq., as such act  
22 existed on the effective date of this act. Manufactured home also  
23 includes any manufactured home designed and manufactured with more  
24 than one separate living unit for the purpose of multifamily living;  
25 and

26 (37) Dealer's agent means a person who acts as a buying  
27 agent for one or more motor vehicle dealers, motorcycle dealers, or

1 trailer dealers.

2 Nothing in sections 60-1401.01 to 60-1440 and sections 6 to  
3 9 of this act shall apply to the State of Nebraska or any of its  
4 agencies or subdivisions. No insurance company, finance company,  
5 public utility company, fleet owner, or other person coming into  
6 possession of any motor vehicle, motorcycle, or trailer, as an  
7 incident to its regular business, who sells or exchanges the motor  
8 vehicle, motorcycle, or trailer shall be considered a dealer except  
9 persons whose regular business is leasing or renting motor vehicles,  
10 motorcycles, or trailers.

11 Sec. 3. Section 60-1403, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 60-1403. (1) The board may:

14 (a) Regulate the issuance and revocation of licenses in  
15 accordance with and subject to sections 60-1401.01 to 60-1440 and  
16 sections 6 to 9 of this act;

17 (b) Perform all acts and duties provided for in such  
18 sections necessary to the administration and enforcement of such  
19 sections; and

20 (c) Make and enforce rules and regulations relating to the  
21 administration of but not inconsistent with such sections.

22 (2) The board shall adopt a seal, which may be either an  
23 engraved or ink stamp seal, with the words Nebraska Motor Vehicle  
24 Industry Licensing Board and such other devices as the board may  
25 desire included on the seal by which it shall authenticate the acts of  
26 its office. Copies of all records and papers in the office of the  
27 board under the hand and seal of its office shall be received in

1 evidence in all cases equally and with like effect as the original.

2 (3) Investigators employed by the board may enter upon and  
3 inspect the facilities, the required records, and any vehicles,  
4 trailers, or motorcycles found in any licensed motor vehicle,  
5 motorcycle, or trailer dealer's established place or places of  
6 business.

7 Sec. 4. Section 60-1403.01, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 60-1403.01. (1) No person shall engage in the business as,  
10 serve in the capacity of, or act as a motor vehicle, trailer, or  
11 motorcycle dealer, wrecker or salvage dealer, salesperson, auction  
12 dealer, dealer's agent, manufacturer, factory branch, factory  
13 representative, distributor, distributor branch, or distributor  
14 representative in this state without being licensed by the board under  
15 the provisions of sections 60-1401.01 to 60-1440 and sections 6 to 9  
16 of this act. No salesperson's license shall be issued to any person  
17 under the age of sixteen, and no dealer's license shall be issued to  
18 any minor. No wrecker or salvage dealer's license shall be issued or  
19 renewed unless the applicant has a permanent place of business at  
20 which the activity requiring licensing is performed and which conforms  
21 to all local laws.

22 (2) A license issued under sections 60-1401.01 to 60-1440  
23 and sections 6 to 9 of this act shall authorize the holder thereof  
24 to engage in the business or activities permitted by the license  
25 subject to sections 60-1401.01 to 60-1440 and sections 6 to 9 of this  
26 act and the rules and regulations adopted and promulgated by the  
27 board under such sections.

1           (3) This section shall not apply to a licensed real estate  
2 salesperson or broker who negotiates for sale or sells a trailer for  
3 any individual who is the owner of not more than two trailers.

4           Sec. 5. Section 60-1407, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           60-1407. Any person desiring to apply for one or more of the  
7 types of licenses described in Chapter 60, article 14, and sections 6  
8 to 9 of this act shall submit to the board, in writing, the following  
9 required information:

10           (1) The name and address of the applicant, if the applicant  
11 is an individual, his or her social security number, and the name  
12 under which he or she intends to conduct business. If the applicant is  
13 a partnership or limited liability company, it shall set forth the  
14 name and address of each partner or member thereof and the name under  
15 which the business is to be conducted. If the applicant is a  
16 corporation, it shall set forth the name of the corporation and the  
17 name and address of each of its principal officers;

18           (2) The place or places, including the city or village and  
19 the street and street number, if any, where the business is to be  
20 conducted or the salesperson employed;

21           (3) If the application is for a motor vehicle dealer's  
22 license, trailer dealer's license, or motorcycle dealer's license (a)  
23 the name or names of the new motor vehicle or vehicles, new trailer or  
24 trailers, new motorcycle or motorcycles which the applicant has been  
25 enfranchised to sell or exchange, (b) the name or names and address or  
26 addresses of the manufacturer or distributor who has enfranchised the  
27 applicant, (c) a current copy of each existing franchise, and (d) a

1 description of the community ~~as defined in section 60-1401.02~~  
2 designated in the franchise agreement or, if the franchise agreement  
3 fails to designate a community, (i) the community of the franchisee  
4 is the area surrounding the location of the franchisee in a five-mile  
5 radius from the dealership if the location is within a city of the  
6 metropolitan class and (ii) the community of the franchisee is the  
7 county in which the franchisee is located if the location is not  
8 within a city of the metropolitan class;

9 (4) If the application is for any of the ~~above-named~~  
10 classes of dealer's licenses listed in subdivision (3) of this  
11 section, the name and address of the person who is to act as a motor  
12 vehicle, trailer, or motorcycle salesperson under such license if  
13 issued;

14 (5) If the application is for a dealer's agent, the dealers  
15 for which the agent will be buying; ~~and~~

16 (6) A description of the proposed place or places of  
17 business proposed to be operated in the event a license is granted  
18 together with (a) a statement whether the applicant owns or leases the  
19 proposed established place of business ~~as defined in section~~  
20 ~~60-1401.02~~ and, if the proposed established place of business is  
21 leased, the applicant shall file a true and correct copy of the lease  
22 agreement, and (b) a description of the facilities for the display of  
23 motor vehicles, trailers, and motorcycles; and -

24 (7) A certificate of completion of an education program as  
25 prescribed in section 8 of this act.

26 Subdivision (3)(d) of this section shall not be construed to  
27 require any licensee who has a franchise on August 31, 2003, to show

1 good cause to be in the same community as any other licensee who has a  
2 franchise of the same line-make in the same community on August 31,  
3 2003.

4 Sec. 6. On and after the effective date of this act, any  
5 person who has not previously been issued a motor vehicle, motorcycle,  
6 or trailer salesperson license or dealer's agent license or any  
7 person or authorized person who has not previously been issued a  
8 motor vehicle dealer's license, motorcycle dealer's license, or  
9 trailer dealer's license, issued under section 60-1406, shall be,  
10 prior to submitting an application for such a license, required to  
11 successfully complete an education program as set forth in sections 7  
12 to 9 of this act. This section does not apply to any person or  
13 authorized person applying for a motor vehicle dealer's license,  
14 motorcycle dealer's license, or trailer dealer's license, issued  
15 under section 60-1406, for operation as a franchisee.

16 Sec. 7. (1) An education program required under section 6  
17 of this act shall be approved by the board and shall consist of at  
18 least eight hours of education, as determined by the board. Any  
19 education program shall include, but not be limited to, the  
20 following: Motor vehicle advertising law, odometer law and  
21 regulation, motor vehicle licensing and registration, unlawful motor  
22 vehicle dealer activities, environmental rules and regulations,  
23 Nebraska and industry standard motor vehicle dealer forms, federal  
24 Truth in Lending Act practices, motor vehicle financing, motor  
25 vehicle service and warranty contracts, land-use rules, regulations,  
26 and law, any other motor vehicle laws applicable to being a used  
27 motor vehicle dealer, and the requirements of any and all regulatory

1 agencies or departments at the local, state, and federal levels.

2 (2) An education program under section 6 of this act shall  
3 be developed by a motor vehicle industry association having been in  
4 operation for at least five years, including, but not limited to, the  
5 state independent automobile dealers association. An education  
6 program may be modified at any time subject to board approval.

7 (3) Providers of education programs shall be subject to  
8 board approval.

9 Sec. 8. (1) A person participating in an education program  
10 under section 6 of this act shall attend all classes and pass an  
11 open-book examination in order to successfully complete such  
12 education program. All examination questions and answers for such  
13 education program shall be approved by the board. The grade for  
14 passing the examination shall be determined by the board.

15 (2) A person who successfully completes an education  
16 program shall receive a certificate of completion. The certificate of  
17 completion shall contain the person's name and his or her operator's  
18 license number or state identification card number and shall be  
19 signed by the instructor. The certificate of completion shall be  
20 submitted to the board at the time of application for a license  
21 listed in section 6 of this act.

22 Sec. 9. The board may adopt and promulgate rules and  
23 regulations to carry out sections 6 to 9 of this act.

24 Sec. 10. Section 60-1411.01, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 60-1411.01. (1) To pay the expenses of the administration,  
27 operation, maintenance, and enforcement of sections 60-1401.01 to

1       60-1440 and sections 6 to 9 of this act, the board shall collect,  
2       with each application for each class of license, fees not exceeding  
3       the following amounts:

- 4               (a) Motor vehicle dealer's license, two hundred dollars;  
5               (b) Supplemental motor vehicle dealer's license, ten  
6       dollars;  
7               (c) Motor vehicle or motorcycle salesperson's license, ten  
8       dollars;  
9               (d) Dealer's agent license, fifty dollars;  
10              (e) Motor vehicle, motorcycle, or trailer manufacturer's  
11       license, three hundred dollars;  
12              (f) Distributor's license, three hundred dollars;  
13              (g) Factory representative's license, ten dollars;  
14              (h) Distributor representative's license, ten dollars;  
15              (i) Finance company's license, two hundred dollars;  
16              (j) Wrecker or salvage dealer's license, one hundred  
17       dollars;  
18              (k) Factory branch license, one hundred dollars;  
19              (l) Motorcycle dealer's license, two hundred dollars;  
20              (m) Motor vehicle auction dealer's license, two hundred  
21       dollars; and  
22              (n) Trailer dealer's license, two hundred dollars.

23              (2) The fees shall be fixed by the board and shall not  
24       exceed the amount actually necessary to sustain the administration,  
25       operation, maintenance, and enforcement of sections 60-1401.01 to  
26       60-1440 and sections 6 to 9 of this act.

27              (3) Such licenses, if issued, shall expire on December 31

1 next following the date of the issuance thereof. Any motor vehicle,  
2 motorcycle, or trailer dealer changing its location shall not be  
3 required to obtain a new license if the new location is within the  
4 same city limits or county, all requirements of law are complied with,  
5 and a fee of twenty-five dollars is paid, but any change of ownership  
6 of any licensee shall require a new application for a license and a  
7 new license. Change of name of licensee without change of ownership  
8 shall require the licensee to obtain a new license and pay a fee of  
9 five dollars. Applications shall be made each year for a new or  
10 renewal license. If the applicant is an individual, the application  
11 shall include the applicant's social security number.

12 Sec. 11. Section 60-1438.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 60-1438.01. (1) For purposes of this section, manufacturer  
15 or distributor includes (a) a factory representative or a distributor  
16 representative or (b) a person who is affiliated with a manufacturer  
17 or distributor or who, directly or indirectly through an intermediary,  
18 is controlled by, or is under common control with, the manufacturer or  
19 distributor. A person is controlled by a manufacturer or distributor  
20 if the manufacturer or distributor has the authority directly or  
21 indirectly, by law or by agreement of the parties, to direct or  
22 influence the management and policies of the person. A franchise  
23 agreement with a Nebraska-licensed dealer which conforms to and is  
24 subject to sections 60-1401.01 to 60-1440 and sections 6 to 9 of this  
25 act is not control for purposes of this section.

26 (2) Except as provided in this section, a manufacturer or  
27 distributor shall not directly or indirectly:

1           (a) Own an interest in a franchise, franchisee, or consumer  
2 care or service facility, except that a manufacturer or distributor  
3 may hold stock in a publicly held franchise, franchisee, or consumer  
4 care or service facility so long as the manufacturer or distributor  
5 does not by virtue of holding such stock operate or control the  
6 franchise, franchisee, or consumer care or service facility;

7           (b) Operate or control a franchise, franchisee, or consumer  
8 care or service facility; or

9           (c) Act in the capacity of a franchisee.

10           (3) A manufacturer or distributor may own an interest in a  
11 franchisee or otherwise control a franchise for a period not to exceed  
12 twelve months after the date the manufacturer or distributor acquires  
13 the franchise if:

14           (a) The person from whom the manufacturer or distributor  
15 acquired the franchise was a franchisee; and

16           (b) The franchise is for sale by the manufacturer or  
17 distributor.

18           (4) For purposes of broadening the diversity of its  
19 franchisees and enhancing opportunities for qualified persons who lack  
20 the resources to purchase a franchise outright, but for no other  
21 purpose, a manufacturer or distributor may temporarily own an interest  
22 in a franchise if the manufacturer's or distributor's participation in  
23 the franchise is in a bona fide relationship with a franchisee and the  
24 franchisee:

25           (a) Has made a significant investment in the franchise,  
26 which investment is subject to loss;

27           (b) Has an ownership interest in the franchise; and

1           (c) Operates the franchise under a plan to acquire full  
2 ownership of the franchise within a reasonable time and under  
3 reasonable terms and conditions.

4           (5) On a showing of good cause by a manufacturer or  
5 distributor, the board may extend the time limit set forth in  
6 subsection (3) of this section. An extension may not exceed twelve  
7 months. An application for an extension after the first extension is  
8 granted is subject to protest by a franchisee of the same line-make  
9 whose franchise is located in the same community as the franchise  
10 owned or controlled by the manufacturer or distributor.

11           (6) The prohibition in subdivision (2)(b) of this section  
12 shall not apply to any manufacturer of manufactured housing,  
13 recreational vehicles, or trailers.

14           Sec. 12. The Revisor of Statutes shall assign sections 6 to  
15 9 of this act to Chapter 60, article 14, and any references to such  
16 chapter and article shall be deemed to include sections 6 to 9 of this  
17 act.

18           Sec. 13. Original sections 60-1403, 60-1403.01, 60-1407,  
19 60-1411.01, and 60-1438.01, Reissue Revised Statutes of Nebraska, and  
20 sections 25-2602.01 and 60-1401.02, Revised Statutes Cumulative  
21 Supplement, 2006, are repealed.